

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
January 28, 2004 Item:

File Number
CP03-004

Application Type
Conditional Use Permit

Council District
5

Planning Area
Alum Rock

Assessor's Parcel Number(s)
48132055

PROJECT DESCRIPTION

Completed by: Elena Lee

Location: East side of Capitol Expressway, approximately 600 feet northerly of Story Road

Gross Acreage: 2.13

Net Acreage: 2.13

Net Density: N/A

Existing Zoning: R-1-8 Residential

Existing Use: Church (7,700 square feet)

Proposed Zoning: No change

Proposed Use: Church (19,898 square feet)

GENERAL PLAN

Completed by: EL

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: EL

North: Residential

R-1-8 Residential

East: Commercial and Residential

A(PD), R-1-8 Residential, and CN Commercial Neighborhood

South: Residential and Commercial

R-1-8 Residential and CN Commercial Neighborhood

West: Residential

R-1-8 Residential

ENVIRONMENTAL STATUS

Completed by: EL

☐ Environmental Impact Report found complete

☐ Negative Declaration circulated on

☐ Negative Declaration adopted on

☒ Exempt

☐ Environmental Review Incomplete

FILE HISTORY

Completed by: EL

Annexation Title: Hillview No. 66

Date: 07/27/81

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: EL**Department of Public Works**

See attached

Other Departments and Agencies

See attached for memorandum from Fire Department, Urban Runoff Coordinator, San José Police Department,

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, John 3:16 Templo Juan Church, is requesting a Conditional Use Permit (CUP) to allow the addition of a 12,198 square foot building and 185 space parking lot to an existing church on a 2.13 gross acre site located in the R-1-8 Residence Zoning District. The site includes an existing 7,700 square foot church building. The Zoning Code requires a CUP for a church use in this zoning district. The Conditional Use Permit will also serve as a Site Development Permit for modifications to the building and the project site. The proposed 12,198 square foot building will house a new sanctuary, which will increase the assembly capacity from 150 seats to 500 seats. The existing sanctuary will be maintained as additional meeting space. The applicant does not propose to use both buildings for meetings at the same time.

The project is located east of Capitol Avenue, a frontage road for Capitol Expressway, and 600 feet northerly of Story Road. Single-family residential uses are located to the north and west. Both commercial and residential uses are located to the south and east.

ENVIRONMENTAL REVIEW

use is compatible with adjacent uses and consistent with City policy regarding the location of churches.

ANALYSIS

The primary issues associated with this project are compatibility with the surrounding neighborhood and conformance to the Church Location Policy.

Land Use Compatibility

The proposed church expansion is compatible with the land uses surrounding the site. The subject site is located within a heavily trafficked area on a frontage road and adjacent to Capitol Expressway. The proposed expansion of the existing church would be in the interior of a very large lot. The project includes a 25-foot landscaped front yard and approximately 5-foot landscaping strip along the interior property lines. The development also would provide landscaping and 6-foot tall masonry walls along the property perimeter adjacent to residential neighbors, to provide additional buffering. The permit would also be conditioned to prohibit lighting fixtures from exceeding 12 feet in height to prevent light from impacting neighboring residential properties.

Conformance to the Zoning Code standards further establishes land use compatibility. The project conforms to the setback requirements of the R-1-8 Residential Zoning District, and will provide substantial new landscaping. The new sanctuary will be a primarily one-story 28-foot tall building. This architecture and scale would be consistent with the height and size of the existing building on the site, and the neighboring residential uses.

The proposed project will meet the Zoning Ordinance's parking requirement. Religious assembly facilities or churches are required to provide one parking space per four fixed seats or one per 30 square foot of area designed for assembly. The new expanded building includes a 500 fixed seat primary worship space, which would require 125 parking spaces. The proposed project would include 185 on-site parking spaces. A 2,988 square foot meeting room will remain in the existing church building. However, use of this space would be restricted to the times when the sanctuary is not in operation. Because both spaces would not be allowed to be in use simultaneously, sufficient parking has been provided for the use that would require the largest number of spaces, the assembly area in the new building. The permit will include a condition that will require that the meeting spaces must be used at different times.

Based upon the above analysis, staff has determined that the proposed design and location of the

R-1-8 Residential Zoning District. The project has also been carefully designed to be compatible with the neighborhood. The project is compatible with the surrounding neighborhood, provides all required parking and circulation onsite and provides substantial landscaping.

CONCLUSION

The project fully complies with the requirements of the City's Zoning Ordinance and adequately conforms to City Council Policies.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties within 500 feet of the project site and staff has been available to discuss the project with any interested parties.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*.
2. The project site is located in the R-1-8 Residential Zoning District.
3. Under the provisions of Section 15301 of the *State Guidelines for Implementation of the California Environmental Quality Act* (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The project site is 2.14 acres in area.
5. The project site is presently occupied with a one-story church building, approximately 7,700 square feet in area.

on-site parking spaces. Use of the other 2,988 square-foot meeting room in the church will be restricted to times when the sanctuary is not occupied.

This Planning Commission concludes and finds, based upon an analysis of the above facts, that:

1. The proposed project is consistent with the adopted *San José 2020 General Plan Land Use/Transportation Diagram* designation of Medium Low Density Residential (8 DU/AC).
2. The proposed project complies with all provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
4. The project is in compliance with City Council Policy 6-21, *Church Location Policy*.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Templo Juan 3:16 Inc. Church," dated July 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).

3. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the

6. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
7. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
8. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall conform to the Zoning Code requirement for height or not exceed 12 feet above grade, whichever is lesser.
9. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Roof Equipment.** All roof equipment shall be screened from view.
11. **Outside Storage.** No outside storage is permitted.
12. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
13. **Street Trees.** Street trees shall be planted along the Capitol Avenue street frontage to the satisfaction of the Director of the Department of Streets and Traffic. A permit for this is required from the Department of Streets and Traffic, (408) 277-4373.
14. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
15. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works

applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San José, California 95110-1795. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.

c. *Storm.*

- 1) The applicant shall provide documentation of existing storm line that runs along the eastern side of the property.
- 2) The applicant shall connect to the existing storm main via a manhole. The proposed inlet above the existing main is not allowed.
- 3) The applicant shall show overland release path in arrows at the grading plan stage.

d. *Storm Water Stenciling.* All drain inlets shall be labeled "No Dumping--Flows to Bay." Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.

e. *Geology/Grading:*

- 1) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- 2) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 277-4304 for more information concerning the requirements for obtaining this permit.
- 3) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPP) for controlling storm water discharges associated with construction activity. Copies of these documents

f. *Flood: Zone AO, Depth 1 ft:*

- 1) The project must comply with the Substantial Improvement Policy for improvements to existing structures in a Special Flood Hazard Area.
- 2) If the cost of the proposed improvements exceed 50% of the current market value of the existing structure, then the entire structure must fully comply with the following City Floodplain Management requirements:
 - a) Elevate the lowest floor of the structure to 1 foot above the highest existing adjacent grade to the proposed structure or floodproof to the same elevation.
 - b) If the structure is elevated, an Elevation Certificate (FEMA Form 81-31) based on construction drawings is required prior to the issuance of a building permit. Consequently, after the improvement is completed, an Elevation Certificate based on finished construction is required prior to issuance of an occupancy permit
 - c) If the structure is floodproofed, a Floodproofing Certificate (FEMA Form 81-65), and floodproofing details are required prior to the issuance of a Public Works Clearance.
 - d) If applicable, provide a minimum of two openings per enclosed space below the base flood elevation. Each opening shall be able to automatically equalize the lateral pressure of the floodwaters. The bottom of each opening shall be placed within twelve inches of finished grade. The total net area of such openings shall not be less than one square inch per one square foot of enclosed area.
 - e) Building support utility systems such as HVAC, electrical, and plumbing systems must be elevated above the base flood elevation or protected from flood damage.

g. *Electrical.* Installation/relocation/relamping of electroliers may be required and will be determined at the improvement plan stage.

h. *Landscape:*

- 1) Install street trees within the public right-of-way along the entire street frontage per City standards.

- 2) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - 3) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - j. *SNI*: The project is located within the East Valley/680 communities SNI area. Public improvement shall conform to the approved EIR and neighborhood improvement plan.
 - k. *Minor Improvement Permit*: The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.
16. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans*. This permit file number, CP03-004, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans With Disabilities Act*. The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
17. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

22. **Church Seating.** No more than 500 seats shall be provided in the sanctuary at any one time.
23. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
24. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
25. **Gathering Room/Social Hall.** The two sanctuaries or gathering rooms of the existing and proposed buildings on the approved site plan shall not be used concurrently.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 350, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of a Development Permit, Development Variance, Development Exception or other approval was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or